

S/N: 09/672,146

9/11/2002

D CKET NO.: IWA-126-USA-P

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Chika Nishin et al.

Serial No.: 09/672,146

Reissue Application of  
US Patent No. 5,814,634  
issued on September 29, 1998

Art Unit: 1203

Filed: April 17, 1997

Examiner: Covington, R.

For: Alkylenediamine Derivative, Anti-Ulcer Drug, and  
Antibacterial Drug

**SECOND PETITION FOR ACCEPTANCE OF**  
**SUPPLEMENTAL REISSUE APPLICATION DECLARATION**  
**AND POWER OF ATTORNEY BY INVENTORS**  
**UNDER 37 CFR § 1.175(b)(1)**  
**WITHOUT THE SIGNATURE OF MR. TOMOHIRO UETAKE**

Assistant Commissioner of  
Patents and Trademarks  
Washington, D.C. 20231

Sir:

Applicant hereby petitions for the acceptance of the above Second Supplemental Reissue Application Declaration in absence of the signature of Mr. Tomohiro Uetake. A first petition was denied on August 14, 2002. The previously submitted declarations and argument are part of this record.

The declaration under 37 CFR § 1.47 previously submitted stated that Mr. Uetake had a disagreement with Shiseido and that Mr. Uetake had refused to sign the subject declaration.

It was respectfully submitted that the rights of Shiseido Co., Ltd. should not be prejudiced by the refusal of Mr. Uetake to sign. The Decision dated August 14, 2002 on the Petition filed July 9, 2002 was that Shiseido Co, Ltd. had not made a sufficient showing that Mr. Uetake had refused to sign and that diligent efforts had

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not been shown. Shiseido has proprietary interest in the subject application and will suffer irreparable damage if this petition is not granted.

The Nishi Declaration is addressed to the specific problem identified in the paper mailed August 14, 2002 from the re-examination unit. In the paper dated August 14, 2002, the first petition was dismissed because Applicant had merely stated a conclusion which was not supported by a showing as to the unsigned inventor's unavailability or unwillingness to cooperate. In response to this holding, Applicant has, as stated by Mr. Nishi, attempted to personally contact Mr. Tomohiro Uetake. As stated in the Nishi Declaration, Mr. Uetake has refused to sign the Declaration or even discuss the matter with Shiseido Co., Ltd. In view of the above circumstances, Applicant has shown not only that the unsigned inventor is unwilling to cooperate, Applicant has shown that the unsigned inventor is even unwilling to discuss the matter with Applicant. For the foregoing reasons, it is respectfully submitted that Applicant has made the necessary showing as required in the Decision Dismissing Petition dated August 14, 2002.

The efforts by Mr. Nishi to contact Mr. Uetake were diligent as attested to in the second paragraph of the Nishi Declaration. Initially, telephone communication and personal meeting proposed were unacceptable to Mr. Uetake. As a result, there was a contact by e-mail on September 2, 2002. It is respectfully submitted that Applicant has been as diligent as possible in dealing with the person who refuses to speak to them. For this reason, it is

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submitted that diligence and refusal have been shown as required in the conclusion paragraph at page 2 of the paper dated August 14, 2002.

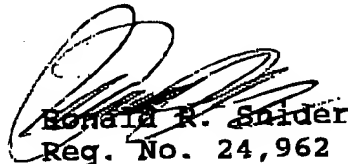
Even the attempt to apologize to Mr. Uetake if there was any unpleasant behavior to him when he was an employee of Shiseido Co., Ltd. had no effect.

It is, therefore, respectfully requested that this petition be allowed.

SUBMISSION OF PETITION FEE UNDER 37 CFR § 1.47

Applicant hereby submits the fee in the amount of \$130.00 for the Petition Under 37 CFR § 1.47 which accompanies this fee paper. This amount is believed to be correct, however, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 19-2816. A duplicate copy of this letter is attached.

Respectfully submitted,

  
Ronald R. Snider  
Reg. No. 24,962

Date: September 11, 2002

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Antibacterial Drug

DECLARATION UNDER 37 CFR § 1.47

My Name is Soichiro Nishi. I am a Manager of Patent Department, Shiseido Co., Ltd.

I have never personally met Mr. Tomohiro Uetake at any time. I personally contacted him by E-Mail on September 2, 2002 because the telephone communication and the personal meeting I proposed to him were unacceptable to him. I proposed that having a meal with him so that we could discuss the possibility of obtaining his signature. I told him I was a representative of Shiseido Co., Ltd and I tried to apologize to him if there was any unpleasant behavior to him when he was an employee of Shiseido Co., Ltd.

He refused to meet with me or speak with me by telephone and has refused any contact between us. I tried to persuade him into discussing the matter, but I was not successful. He has refused any contact between us.

Mr. Uetake has, therefore, refused to sign the reissue declaration or even discuss the matter with Shiseido Co., Ltd.

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Soichiro Nishi

Signature

11th Sep. 2002

Date

Soichiro Nishi  
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